

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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ROBERT BANUSHI

Plaintiff,

-against-

**CITY OF NEW YORK; Police Officer ALVIN L.
L. PALMER, Shield No. 04009; and Police Officer
EQUASHIA ALLEN**

Defendant(s)
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08-cv-2937 (ENV) (JO)

**AFFIRMATION IN SUPPORT OF
MOTION FOR LEAVE TO
WITHDRAW AS ATTORNEY**

OKECHUKWU VALENTINE NNEBE, an attorney admitted to practice in the Courts of New York State and in the District Court of the Eastern District of New York, affirms under the penalty of perjury and state as follows:

1. I am the counsel of record for plaintiff Robert Banushi ("Plaintiff") and as such conversant with the facts deposed herein. All statements contained herein are based upon my personal knowledge or upon information and belief. I make this affirmation in support of the motion, pursuant to Local Civil Rule 1.4, for an order granting leave for me and the law firm of Nnebe & Associates, P.C. to withdraw as counsel of record for plaintiff.

2. I entered appearance on behalf of the plaintiff by a notice of appearance dated October 14, 2010 and filed the same date (Doc. 53). Thereafter I appeared for telephone conferences on October 19, 2010 before Judge Kiyo A. Matsumoto, with plaintiff personally present and Brian Francolla, Esq. appearing on behalf of the defendants.

3. At the said conference the Court directed counsel to confer with their clients and to exchange reasonable, revised settlement demands and offers; to engage in good faith settlement negotiations, and if necessary, to appear before Judge Orenstein for a settlement

conference; and to submit a joint status report by ECF regarding settlement progress by 12/20/10.

4. I have also had several discussions with plaintiff in my office regarding his position on reasonable good faith settlement demand. Unfortunately, the plaintiff's expectation of the settlement value of this action is not what I can, in good faith and furtherance of my ethical obligations, present or pursue. I have advised the plaintiff of my professional view of the value of this matter, but my view is fundamentally different from plaintiff's position.

5. Accordingly, plaintiff requested me withdraw as his attorney, and provided me with a notarized Consent to Withdraw as his attorney, copy of which is attached as **Exhibit A**. While plaintiff did not so request, I humbly request that he be given sufficient time to retain another attorney to represent him in this action.

6. The withdrawal is not sought for the purposes of delay, and the plaintiff will not be prejudiced thereby. Other than the settlement directed by the Court on October 19, 2010 no other proceedings is scheduled in this matter. The Court had rendered its decision on defendants' motion for Summary judgment, but no trial date has been set. Plaintiff will have sufficient time to obtain a new attorney for the trial, if he so desire.

7. The Court has considerable discretion in deciding whether to grant a motion for withdrawal of an attorney. Whiting v. Lacara, 187 F.3d 317, 320 (2d Cir. 1999). There is good cause for this Court to grant the motion to withdraw. My appearance and participation in this matter has been very minimal, from October 14, 2010. My withdrawal is based on a mutual understanding between me and the plaintiff that my services and/or assistance are no longer required in prosecuting this matter, and at plaintiff's request and insistence.

8. I have since engaged in several email exchanges and phone discussions with

defendants' attorney, Brian Francolla to facilitate a meaningful good faith settlement discussion.

Mr. Francolla does not object to this motion to withdraw.

WHEREFORE, it is respectfully requested that this motion be granted and that I be permitted to withdraw as attorney for the plaintiff, and that plaintiff be given sufficient time to obtain new representation if he so desires.

Dated: Williamsburg, New York
November 27, 2010

/s/Okechukwu Valentine Nnebe
Okechukwu Valentine Nnebe (ON6147)
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To:

1. Brian Francolla
100 Church Street
New York, NY 1007 (By ECF)
2. Robert Banushi
46 Parrot Place
Brooklyn, NY 11228 (By regular mail and hand delivery).